



Department
of Health

Office of
Mental Health

Office of Alcoholism and
Substance Abuse Services

January 5, 2016

Finger Lakes PPS
Carol Fisher, Director of Grants
Rochester General Hospital/Unity Hospital Rochester
RGH 100 Kings Highway South
Rochester, New York 14617

Dear Ms. Fisher:

The New York State Department of Health (Department), the Office of Mental Health (OMH), the Office of Alcoholism and Substance Abuse Services (OASAS) are pleased to respond to the request for waivers from certain regulatory requirements submitted under the Delivery System Reform Incentive Payment (DSRIP) Program. This letter responds to the request submitted by Rochester General Hospital/Unity Hospital Rochester, in its capacity as lead for the Finger Lakes Performing Provider System (PPS).

Pursuant to Public Health Law (PHL) § 2807(20)(e) and (21)(e), and in connection with DSRIP Project Plans and projects under the Capital Restructuring Financing Program, which are associated with DSRIP projects, the Department, OMH, and OASAS may waive regulations for the purpose of allowing applicants to avoid duplication of requirements and to allow the efficient implementation of the proposed projects. However, the agencies may not waive regulations pertaining to patient safety nor waive regulations if such waiver would risk patient safety. Further, any waivers approved under this authority may not exceed the life of the project or such shorter time periods as the authorizing commissioner may determine.

Accordingly, any regulatory waivers approved herein are for projects and activities as described in the Project Plan application and any implementation activities reasonably associated therewith. Such regulatory waivers may no longer apply should there be any changes in the nature of a project. It is the responsibility of the PPS and the providers that have received waivers to notify the relevant agency when they become aware of any material change in the specified project that goes beyond the scope for which the waiver was granted. Further, any regulatory waivers approved are only for the duration of the projects for which they were requested.

The approval of regulatory waivers are contingent upon the satisfaction of certain conditions. In all cases, providers must be in good standing with the relevant agency or agencies. Other conditions may be applicable, as set forth in greater detail below. The failure to satisfy any such conditions may result in the withdrawal of the approval, meaning that the providers will be required to maintain compliance with the regulatory requirements at issue and could be subject to enforcement absent such compliance.

Specific requests for regulatory waivers included in the Finger Lakes PPS Project Plan application are addressed below.

1 FLPPS New York Public Health Law Article 29-G: Telehealth Delivery of Services. 2.a.i, 2.b.iii, 2.d.i, 3.a.i

Background and Justification submitted with your request:

In order to further benefit from the improved quality of care, reduction in health care costs, and high patient satisfaction, a regulatory environment that supports the telemedicine models we have developed and appropriate reimbursement is critical. This waiver would remove restrictions on originating site: Schools, child care settings, development centers, senior living communities, and skilled nursing facilities should all be viable originating sites. In this bill the mode of interaction will include store-and-forward and real-time interactive videoconferencing but does not remove all restrictions on originating sites. Local agreements with Managed Medicaid insurers have sustained the program to date but are running out of their pilot project status. Telemedicine technicians undergo training and follow policies and procedures set forth by participating PPS partners. Patients presenting with conditions that cannot be fully evaluated and treated by telemedicine will be referred for in-person care.

Response to Waiver Request:

Denied. These are statutory requirements and therefore cannot be waived.

2 FLPPS 10 NYSCRR Part 765 Approval and Licensure of Home Care Services Agencies. 2a.i, 2.b.iv, 2.b.ii, 3.f.i

Background and Justification submitted with your request:

The common component amongst these programs is the need to minimize barriers to patient care, which may include venue of care, rapid access to care, and patient service in a safe setting. A waiver would address SHCG in its effort to provide services in every county of the FLPPS. SHCG operates two licensed home care services agencies. Community Care of Rochester dba Visiting Nurse Signature Care 0761L001 (VNSC) has a service area that includes Chemung, Genesee, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne and Yates counties. Genesee is the unique county. Finger Lakes Home Care 9700L001 has a service area that includes Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Tompkins, Wayne and Yates counties. Tompkins is the unique county. Both agencies are partners in the DSRIP Finger Lakes Performing Provider System (FLPPS) which has a service area of Allegany, Cayuga, Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Seneca, Steuben, Wayne, Wyoming and Yates counties. In May of 2014, VNSC submitted a request to our regional DOH office to expand VNSC geographically to include Allegheny, Cayuga, Orleans, Tompkins and Wyoming counties. At the time, the request was made to better align VNSC with the integrated delivery system being developed by the University of Rochester Medical Center (the University of Rochester is the sole member of SHCG). The FLPPS was a key component. The response from the local office was that VNSC could expand only one county to either the east or the west. First, VNSC wishes to operate a single LHCSA. This is most easily accomplished by expanding the service area of VNSC and closing FLHC in an orderly manner, pursuant to DOH regulations. Second, VNSC seeks to expand the single LHCSA service area to cover the entire FLPPS region. To ensure that the needs of patients can be met efficiently

over the expanse FLPPS region, VNSC will operate remote locations in Lakeville, Livingston County, Hornell, Allegany County and Elmira, Chemung County.

Response to Waiver Request:

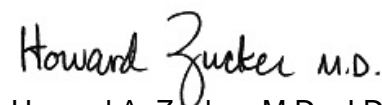
LHCSA Service Area Expansion. No waiver needed. The VNSC may expand its service area to all counties served by the Finger Lakes PPS. VNSC may provide services to Medicaid eligible individuals residing in: Alleghany, Cayuga, Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming and Yates counties. As indicated in their request, the VNSC should locate additional offices within Alleghany, Chemung and Livingston counties in the locations indicated. The VNSC and the Finger Lakes Home Care, Inc. must contact the Western Regional Office, Home Care Program Manager to discuss any closure plan requirements and site review requirements for the additional offices.

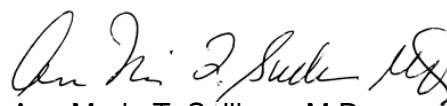
In cases where waivers are approved, the agencies will send letters directed to the providers, who otherwise would be responsible for complying with the regulatory provisions at issue. Providers further will be advised that agency staff who conduct surveillance activities will be notified that these regulatory waivers have been approved; however, they should maintain a copy of their waiver letters at any site subject to surveillance.

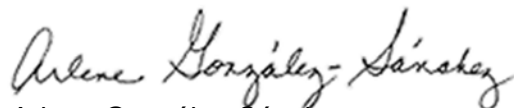
Please note that the Department will publish on its website a list of regulatory waivers that have been approved to assist PPSs in determining whether additional waivers may be appropriate for the activities within a PPS. Additional requests for waivers, as well as any questions regarding the foregoing, may be sent by email to DSRIP@health.ny.gov with Regulatory Waiver in the subject line.

Thank you for your cooperation with this initiative. We look forward to working with you to transform New York's delivery system.

Sincerely,


Howard A. Zucker, M.D., J.D.
Commissioner
New York State Department of Health


Ann Marie T. Sullivan, M.D.
Commissioner
New York State Office of Mental Health


Arlene González-Sánchez
Commissioner
New York State Office of Alcoholism
And Substance Abuse Services